

**REMARKS**

In accordance with above amendments, claims 59 and 64-65 have been amended and no new claims have been added. Thus, claims 51, 52, 53, 55-57, 59-62 and 64-66 remain under consideration in this application. No claim has been allowed.

It is believed that the amendments to claims 64 and 65 overcome the rejections under 35 USC § 112, second paragraph, raised in the present Office Action. It is also believed, the claims presently distinguish over the cited combinations of art and which, while relevant, do not teach or suggest the presently claimed devices or render them obvious under 35 USC § 103(a). The rejections of this Action are respectfully traversed.

As previously indicated, with respect to the combination of Christenson '628 and Brandt '100 as applied either to independent claim 64 or 65, it should be noted, for example, that the arm arrangement 140 of Christenson is nowhere combined with the container grabber device 160. Container grabber 160 is disclosed only in relation to an articulated arm arrangement as shown in Figures 7 and 9 and elsewhere. The recitation that "any lifting arm" may be used with any container grabbing... apparatus only serves to reinforce the fact that one would not be led to the particular combination claimed which requires a specific arm design. That clearly is not taught or suggested. It is believed that this rejection should be reconsidered and

withdrawn. The references do not suggest or lead one to applicants' particular combination.

As is previously of record, the addition of Sizemore et al '576 with respect to independent claim 65 and dependent claims 51, 55, 56, 60, 61 and 66 also is again traversed for reasons of record. Whereas, Sizemore may teach an alternate means of rotating the lifting arm, that teaching is irrelevant to the problems solved by the present invention. The function of the present claims is just not suggested by the teachings of the proposed combination. The Examiner is requested to withdraw this rejection.

As to the addition of Duell et al '497 and Tordenmalm et al '582 in combination with Brandt and Christenson against claim 59, this further involves picking aspects of prior disclosures of somewhat diverse applications in order to thereafter somehow come up with elements of a claimed combination. Applicants believe that this represents impermissible hindsight. Whether a reference is in the same field or solves an analogous problem clearly depends on how broadly the "field" is defined and applicants believe as did the Court in *In re Oetiker* (cited by the Examiner) that those references would not have been consulted by the applicants.

Claim 59 has also been amended and made more specific. The Examiner is requested to reconsider and withdraw this rejection.

Inasmuch as the amendments made to the claims by this paper have been done in an effort to clarify the language of those claims and that together with the remarks herein are believed to distinguish the claims over the cited art, the Examiner is respectfully requested to enter the Amendment, reconsider his position and allow the claims.

If the Examiner is not inclined to allow any of the claims, it is believed that the Amendment should be entered as it will place the claims in better condition for an Appeal.

Respectfully submitted,

NIKOLAI & MERSEREAU, P.A.



C. G. Mersereau,  
Attorney Reg. No. 26,205  
900 Second Avenue South  
Suite 820 International Centre  
Minneapolis, MN 55402  
Telephone: (612) 339-7461

**CERTIFICATE OF FACSIMILE**

I hereby certify that the foregoing Amendment in response to the final Official Action mailed February 28, 2006, in application Serial No. 09/844,843, filed on April 27, 2001, of Claudiu D. Pruteanu et al, entitled "AUTOMATED LOADER ARM", and a transmittal letter are being sent by facsimile transmission to: The Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 28, 2006.



Barbara L. Davis

On Behalf of C. G. Mersereau

Date of Signature: April 28, 2006